



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

41 CRIMINAL WRIT PETITION NO. 1896 OF 2024

RAJSHREE ABHIJEET VIRGAONKAR

VERSUS

KIRAN DATTATRAY JAGTAP

Mr. A.L.Kanade, Advocate for the petitioner.

Mr. A.S. Tilve, Advocate for the respondent.

CORAM : KISHORE C. SANT, J.

DATE : 24.07.2025

PC :-

01. Heard learned Advocates for the respective parties. This petition is taken up for final disposal at the stage of admission.

02. The petitioner has challenged an order passed by the learned JMFC, Vaijapur, Dist. Aurangabad, dated 15.10.2024, thereby closing the defence evidence of the accused. It is case of the petitioner that he happens to be an accused in a complaint. When he was working as a Head Master, he used to issue cheques from the account of school. However, later on due to some difficulty the account in the bank was closed and another account was opened in another bank. However, cheques in the cheque-book were stolen of the earlier bank. He, therefore, issued a letter to the Branch Manager of the Bank requesting not to encash those cheques. He submits that one of the cheques from the cheque-book of earlier bank is stolen and is presented and on that basis the complaint is lodged.

03. Learned Advocate for the petitioner thus submits that therefore an application was moved to issue summons to the Manager working in the said bank. The Trial Court was pleased to issue summons by order dated 01.11.2023. The petitioner presently resides at Pune, therefore could not take effective steps. The summons could not be served and for that reason the witness could not appear before the Trial Court. The Trial Court, therefore, passed the impugned order closing the evidence.

04. The learned Advocate for the respondent vehemently opposes the petition. He submits that sufficient opportunity was given to the petitioner to produce the witness. It is for the petitioner to get service effected on the said witness and to examine him. Present application is only an attempt to prolong the trial. He prays for dismissal of the petition.

05. Having heard the parties, this Court finds that initially the learned JMFC had allowed application and was also pleased to issue summons to the Branch Manager. It is only due to failure of the petitioner to produce the evidence of that witness, now the evidence is closed. This Court finds that to give fair opportunity to the petitioner/accused, the order needs to be set aside on certain conditions. Hence, following order :-

ORDER

- (i) This Criminal Writ Petition is allowed in terms of prayer clause (B).

- (ii) The Trial Court to issue fresh summons to the witness within two weeks from receipt of copy of this order by the Trial Court. The petitioner shall ensure that the summons is served upon the witness and the witness remains present before the Trial Court on the date fixed by the Trial Court for his evidence and shall complete his evidence on that day. The respondent also to complete his cross-examination on the same day.
- (iii) The learned Trial Court shall dispose of SCC No. 50 of 2016 as early as possible and within one year from today.
- (iv) The above relief shall be subject to payment of costs of Rs.10,000/- (Rupees Ten Thousand) to be paid to the complainant before the Trial Court within four weeks from today.

[KISHORE C. SANT, J.]